



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02-278; FCC 12-21]

Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's document Telephone Consumer Protection Act of 1991 (Report and Order). This notice is consistent with the Report and Order, which stated that the Commission would publish a document in the Federal Register announcing the effective date of those amendments.

DATES: The amendments to 47 CFR 64.1200(a)(2) and (3) published at 77 FR 34233, June 11, 2012, are effective October 16, 2013, 47 CFR 64.1200(a)(7) published at 77 FR 34233, June 11, 2012, is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and 47 CFR 64.1200(b)(3), published at 77 FR 34233, June 11, 2012, is effective **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Karen Johnson, Consumer and Governmental Affairs Bureau, at (202) 418-7706, or e-mail Karen.Johnson@fcc.gov [<mailto:Karen.Johnson@fcc.gov>](mailto:Karen.Johnson@fcc.gov).

SUPPLEMENTARY INFORMATION: This document announces that, on September 17, 2012, OMB approved, for a period of three years, the information collection requirements contained in the Commission's Report and Order, FCC 12-21, published at 77 FR 34233, June 11, 2012. The OMB Control Number is 3060-0519. The Commission publishes this notice as an announcement of the effective date of those amendments. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Number, 3060-0519, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov [<mailto:PRA@fcc.gov>](mailto:PRA@fcc.gov).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov [<mailto:fcc504@fcc.gov>](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on September 17, 2012, for the

information collection requirements contained in the Commission's revised rules at 47 CFR 64.1200(a)(2), 64.1200(a)(3), 64.1200(a)(7), and 47 CFR 64.1200(b)(3).

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-0519.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0519.

OMB Approval Date: September 17, 2012.

OMB Expiration Date: September 30, 2015.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, CG Docket No. 02-278.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions.

Number of Respondents and Responses: 50,151 respondents; 147,453,559 responses.

Estimated Time per Response: .004 hours (15 seconds) to 1 hour.

Frequency of Response: Recordkeeping requirement; Annual, on-occasion and one-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found in the Telephone Consumer Protection Act of 1991 (TCPA), Pub. L. 102-243, December 20, 1991, 105 Stat. 2394, which added Section 227 of the Communications Act of 1934, [47 U.S.C. 227] Restrictions on the Use of Telephone Equipment.

Total Annual Burden: 712,140 hours.

Total Annual Cost: \$3,989,700.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries." As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB-1 "Informal Complaints and Inquiries", in the Federal Register on December 15, 2009 (74 FR 66356) which became effective on January 25, 2010. A system of records for the do-not-call registry was created by the Federal Trade Commission (FTC) under the Privacy Act. The FTC originally published a notice in the

Federal Register describing the system. See 68 FR 37494, June 24, 2003. The FTC updated its system of records for the do-not-call registry in 2009. See 74 FR 17863, April 17, 2009.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at:

[<http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html>](http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html).

NOTE: The Commission will prepare a revision to the SORN and PIA to cover the PII collected related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: The reporting requirements included under this OMB Control Number 3060-0519 enable the Commission to gather information regarding violations of Section 227 of the Communications Act, the Do-Not-Call Implementation Act, and the Commission's implementing rules. If the information collection were not conducted, the Commission would be unable to track and enforce violations of Section 227 of the Communications Act, the Do-Not-Call Implementation Act, or the Commission's implementing rules. The Commission's implementing rules provide consumers with several options for avoiding most unwanted telephone solicitations.

The national do-not-call registry supplements the company-specific do-not-call rules for those consumers who wish to continue requesting that particular companies not call them. Any company that is asked by a consumer, including an existing customer, not to call again originally had to honor that request for five years. In a subsequent order, the

Commission required sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry indefinitely.

A provision of the Commission's rules, however, allows consumers to give specific companies permission to call them through an express written agreement. Nonprofit organizations, companies with whom consumers have an established business relationship, and calls to persons with whom the telemarketer has a personal relationship are exempt from the "do-not-call" registry requirements.

On September 21, 2004, the Commission released the Safe Harbor Order establishing a limited safe harbor in which persons will not be liable for placing autodialed and prerecorded message calls to numbers ported from a wireline service within the previous 15 days. The Commission also amended its existing National Do-Not-Call Registry safe harbor to require telemarketers to scrub their lists against the Registry every 31 days.

On December 4, 2007, the Commission released a notice of proposed rulemaking seeking comment on its tentative conclusion under the Do-Not-Call Improvement Act of 2007 that registrations with the Registry should be honored indefinitely, unless a number is disconnected or reassigned, or the consumer cancels his registration.

On June 17, 2008, in accordance with the Do-Not-Call Improvement Act of 2007, the Commission revised its rules to minimize the inconvenience to consumers of having to re-register their preferences not to receive telemarketing calls and to further the underlying goal of the National Do-Not-Call Registry to protect consumers' privacy rights. The Commission released a Report and Order in CG Docket No. 02-278, FCC 08-147, amending the Commission's rules under the Telephone Consumer Protection Act

(TCPA) to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry so that registrations will not automatically expire based on the then-existing five-year registration period. Specifically, the Commission modified § 64.1200(c)(2) of its rules to require sellers and/or telemarketers to honor numbers registered on the Registry indefinitely or until the number is removed by the database administrator or the registration is cancelled by the consumer.

Most recently, on February 15, 2012, the Commission released a Report and Order in CG Docket No. 02-278, FCC 12-21, revising its rules to: 1) require prior express written consent for all autodialed or pre-recorded telemarketing calls to wireless numbers and for all pre-recorded telemarketing calls to residential lines; 2) eliminate the established business relationship exception to the consent requirement for pre-recorded telemarketing calls to residential lines; 3) require telemarketers to include an automated, interactive opt-out mechanism in all pre-recorded telemarketing calls, to allow consumers more easily to opt-out of future robocalls during a robocall itself; and 4) require telemarketers to comply with the 3% limit on abandoned calls during each calling campaign, in order to discourage intrusive calling campaigns.

Finally, the Commission exempted from the Telephone Consumer Protection Act requirements pre-recorded calls to residential lines made by health-care-related entities governed by the Health Insurance Portability and Accountability Act of 1996.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison,

Office of the Secretary,

Office of Managing Director.

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